

AMENDED IN SENATE APRIL 15, 2015
AMENDED IN SENATE MARCH 19, 2015

SENATE BILL

No. 204

Introduced by Senator Pavley

February 11, 2015

An act to amend Sections 513, 5001, ~~5080.16~~, and 5080.42 of, to add Sections 5001.2 and 5080.44 to, and to add and repeal Sections 5002.25 and 5003.9 of, the Public Resources Code, relating to state parks.

LEGISLATIVE COUNSEL'S DIGEST

SB 204, as amended, Pavley. State parks.

Existing law establishes the Department of Parks and Recreation and vests the department with the control of the state park system.

This bill would require the Director of Parks and Recreation to promote and regulate the use of the state park system in a manner that conserves the scenery, natural and historic resources, and wildlife in the individual units of the system for the enjoyment of future generations.

The bill would require the Department of Parks and Recreation, on or before December 1, 2016, to prepare a report to the Legislature that identifies the 10 projects within units of the state park system or on other property of the department that may provide the most significant greenhouse gas reductions.

Existing law requires the department to prepare a general plan or revise an existing plan, for a unit of the state park system following classification or reclassification of the unit by the State Park and Recreation Commission, and prior to the development of any new facilities in any previously classified unit.

The California Environmental Quality Act (CEQA) requires a lead agency to prepare or cause to be prepared, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect.

This bill would authorize a lead agency responsible for the environmental analysis and review under CEQA of a proposed park development project, until January 1, 2022, to conduct the analysis and review separately from the development and approval of the general plan for the unit, if the proposed project is contained in a management or development plan of the department prepared for that unit that is or was subject to environmental review under CEQA.

~~Existing law authorizes the Director of Parks and Recreation to negotiate or renegotiate a concession contract if specified conditions exist.~~

~~This bill would additionally authorize the director to negotiate or renegotiate a concession contract if the services provided pursuant to the contract will have minimal impact on state park resources, are inherently mobile or transitory in nature, and do not occupy a state-owned structure. The bill would also declare the intent of the Legislature that the department shall not compete with specified existing concession contracts.~~

Existing law, until January 1, 2019, authorizes the department to enter into an operating agreement with a qualified nonprofit organization for the development, improvement, restoration, care, maintenance, administration, or operation of a unit, or units, or portion of a unit, of the state park system.

This bill would delete the repeal date of that provision, thereby extending its operation indefinitely. The bill would also authorize the department to accept donations of real property or money from public or private sources to be used for the purpose of funding park programs to benefit youth, as defined. The bill would authorize the department to enter into cooperative agreements with public or nonprofit organizations that serve youth, to provide service and learning opportunities for youth, as described. *The bill would further declare the intent of the Legislature that the department shall not compete with specified existing concession contracts.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature that the
2 Department of Parks and Recreation not compete with existing
3 concession contracts through which comparable food and beverage
4 services are provided to the public.

5 SEC. 2. (a) The Legislature finds and declares all of the
6 following:

7 (1) Nearly 35,000 volunteers contribute their time and energy
8 to the Department of Parks and Recreation, thereby enhancing the
9 experiences of visitors, complementing the work of departmental
10 staff, and generating economic activity through their voluntary
11 efforts at state parks.

12 (2) The department estimates that volunteers contribute more
13 than ~~one million~~ 1,000,000 hours each year and generate nearly
14 twenty-five million dollars (\$25,000,000) in economic value to
15 the local and regional economies around state parks through these
16 substantial volunteer efforts.

17 (3) It is the department's existing practice to offer one or more
18 types of complimentary passes to the department's volunteers in
19 recognition of their value-added contributions. Those
20 complimentary passes should also be offered to the volunteers at
21 cooperating associations in recognition of the value-added services
22 they provide.

23 (b) It is the intent of the Legislature that the Department of Parks
24 and Recreation extend the existing policies for the issuance of
25 complimentary state park passes to persons who volunteer at state
26 parks through cooperating associations, as defined in Section 513
27 of the Public Resources Code, consistent with the California State
28 Government Volunteers Act set forth in Chapter 8.5 (commencing
29 with Section 3110) of Division 4 of Title 1 of the Government
30 Code.

31 SEC. 3. Section 513 of the Public Resources Code is amended
32 to read:

33 513. (a) The department, as a means of furthering the
34 interpretive and educational functions of the state park system,
35 may enter into an agreement to act cooperatively with a nonprofit
36 cooperating association engaged in educational or interpretive
37 work in a state park system unit, as the director may designate,
38 whereby the cooperating association would furnish educational

1 and interpretive materials, or educational and interpretive services,
2 or educational and interpretative materials and services, for sale
3 to the public.

4 (b) Pursuant to Article 1 (commencing with Section 5080.02)
5 of Chapter 1.2 of Division 5, a concession may provide materials
6 and services that are intended to add to the convenience, enjoyment,
7 and safety of state park system visitors. A concession may also
8 provide, pursuant to this section, educational and interpretive
9 materials and services, as described in paragraphs (2) and (3) of
10 subdivision (d), with the approval of the department.

11 (c) A cooperating association may provide, pursuant to this
12 section, noneducational and noninterpretive materials and services,
13 as described in paragraph (4) of subdivision (d), or other materials
14 or services that would enhance the visitor experience, as part of
15 its cooperating association program with the approval of the
16 department, if the department is unable to obtain, through a good
17 faith effort, a concessionaire to provide those materials and
18 services.

19 (d) For purposes of this section, the following definitions apply:

20 (1) “Cooperating association” means a corporation that meets
21 all of the following criteria:

22 (A) The corporation is a nonprofit public benefit corporation,
23 organized pursuant to Part 2 (commencing with Section 5110) of
24 Division 2 of Title 1 of the Corporations Code.

25 (B) The articles of incorporation of the corporation state that
26 the specific purpose of the corporation is to provide support for
27 educational and interpretive programs of the state park system, or
28 portions of the programs.

29 (C) The corporation has a cooperating association program
30 contract with the department.

31 (D) The corporation is in compliance with the department’s
32 policies and guidelines regarding cooperating associations and has
33 obtained the department’s approval for its educational and
34 interpretive materials and services.

35 (2) “Educational and interpretive materials” include items that
36 promote visitor appreciation, understanding, and knowledge of
37 natural, cultural, and historic resources of the state park system,
38 including educational and interpretive gifts and souvenirs.

39 (3) “Educational and interpretive services” include those
40 activities and programs that focus on natural, cultural, and historic

resources of the state park system and are not generally offered by the department.

(4) “Educational and interpretive materials and services” do not include lodging, food service, horse and equipment rentals, camping supplies, gifts and souvenirs, other than those described in paragraph (2), transportation, except for equipment owned by the department, recreational lessons, and the operation of specialized facilities within a state park unit such as the theater at Hearst San Simeon State Historic Monument and Old Town San Diego State Historic Park, golf courses, and marinas.

(e) The department, at its discretion, may provide the services of department personnel and shall provide space, if available, for the sale of cooperating association materials, services, or both, within a state park unit.

(f) Subject to rules and regulations that the director shall adopt, all moneys collected by the cooperating association or received by the department from the sale of cooperating association materials, services, or both, provided by a cooperating association shall be retained by or returned to the cooperating association for use in the programs of the state park system unit that the cooperating association has been designated to serve.

SEC. 4. Section 5001 of the Public Resources Code is amended to read:

5001. (a) The Legislature finds and declares all of the following:

(1) California’s state parks are a true reflection of our state’s collective history, natural and cultural heritage, and ideals. The state parks can be models of healthy, natural, and sustainable ecosystems and they can also commemorate important cultural traditions or historic events. To remain relevant now and into the future, state parks must protect California’s heritage and be welcoming in order that visitors may understand and appreciate these special places that have been set aside for their inspiration and enjoyment.

(2) The state parks and other nature, recreation, and historic areas deserve to be preserved and managed for the benefit and inspiration of all state residents and visitors to the state parks. It is the intent of the Legislature to clarify the priorities and responsibilities of state agencies with respect to the management and administration of the state park system.

(3) Individual units of the state park system derive increased importance and recognition through their inclusion in a unified state park system that is preserved and managed for the benefit and inspiration of all Californians and visitors to the state.

(b) The Department of Parks and Recreation has control of the state park system.

SEC. 5. Section 5001.2 is added to the Public Resources Code, to read:

5001.2. The director shall promote and regulate the use of the state park system in a manner that conserves the scenery, natural and historic resources, and wildlife in the individual units of the system for the enjoyment of future generations.

SEC. 6. Section 5002.25 is added to the Public Resources Code, to read:

5002.25. (a) The Legislature finds and declares all of the following:

(1) The development of general plans by the department is lagging far behind any reasonable schedule for completion, many existing general plans are outdated, and there is no practical ability of the department to complete its backlog of general plan development or to maintain the relevancy of adopted general plans in the future in the face of ever-changing circumstances.

(2) The conditions described in paragraph (1) should not diminish the importance of long-range planning for state parks, reduce the opportunities for public input to the department for planning, management, or development efforts, or affect the review of proposed management or development, as required by all applicable laws or regulations.

(3) An alternative approach to the general planning requirements of the department, that does not diminish public input into the operations of a state park unit or reduce in any way the evaluation of a project that is subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000)) and any other applicable law, should be tested on a trial basis in order to assess its strengths and weaknesses.

(4) A trial approach to general planning requirements, as described in paragraph (3), should be undertaken in park units where its use would contribute to a successful partnership arrangement with a cooperating association.

(b) A lead agency responsible for the environmental analysis and review, pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)), of a proposed development project in a unit of the state park system may conduct the analysis and review separately from the development and approval of the general plan for the unit, if the proposed project is contained in a management or development plan of the department prepared for that unit that is or was subject to environmental review pursuant to the act.

(c) This section shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.

SEC. 7. Section 5003.9 is added to the Public Resources Code, to read:

5003.9. (a) The Legislature finds and declares that the department should identify its energy costs, projects that could reduce those costs, and potential energy-related infrastructure projects that may be eligible for funding from revenues that may be generated pursuant to a market-based compliance mechanism that may be adopted by the State Air Resources Board pursuant to Part 5 (commencing with Section 38570) of Division 25.5 of the Health and Safety Code.

(b) (1) On or before December 1, 2016, the department shall prepare a report to the Legislature that identifies the 10 projects within units of the state park system or other property of the department that may provide the most significant greenhouse gas reductions.

(2) The report required pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(c) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2021.

~~SEC. 8. Section 5080.16 of the Public Resources Code is amended to read:~~

~~5080.16. If the director determines that it is in the best interests of the state, the director, upon giving notice to the State Park and Recreation Commission, may negotiate or renegotiate a contract, including terms and conditions, when one or more of the following conditions exist:~~

1 ~~(a) The bid process as prescribed in this article has failed to~~
2 ~~produce a best responsible bidder.~~

3 ~~(b) The negotiation or renegotiation would constitute an~~
4 ~~extension of an existing contract obtained through the process~~
5 ~~required by this article and the extended contract would provide~~
6 ~~for substantial and additional concession facilities, which would~~
7 ~~be constructed at the sole expense of the concessionaire and which~~
8 ~~are set forth in the general plan for the unit and are needed to~~
9 ~~accommodate existing or projected increased public usage.~~

10 ~~(c) Lands in the state park system administered by the~~
11 ~~department and lands under the legal control of the prospective~~
12 ~~concessionaire are so situated that the concession is dependent~~
13 ~~upon the use of those public and private lands for the physical or~~
14 ~~economic success, or both, of the concession.~~

15 ~~(d) Whenever a concession is desired for particular interpretive~~
16 ~~purposes in a unit of the state park system and the prospective~~
17 ~~concessionaire possesses special knowledge, experience, skills, or~~
18 ~~ability appropriate to the particular interpretive purposes.~~

19 ~~(e) Whenever the concession has been severely and adversely~~
20 ~~impacted through no fault of the concessionaire by an unanticipated~~
21 ~~calamity, park closure, major construction, or other harmful event~~
22 ~~or action.~~

23 ~~(f) Whenever the estimated administrative costs for the bid~~
24 ~~process exceed the projected annual net rental revenue to the state.~~

25 ~~(g) The services provided pursuant to the contract will have~~
26 ~~minimal impacts on state park resources, are inherently mobile or~~
27 ~~transitory in nature, and do not occupy a state-owned structure.~~
28 ~~Those services may include, but are not limited to, mobile food~~
29 ~~and beverage services.~~

30 ~~SEC. 9.~~

31 ~~SEC. 8.~~ Section 5080.42 of the Public Resources Code is
32 ~~amended to read:~~

33 5080.42. (a) Notwithstanding any other provision of this
34 article, the department may enter into an operating agreement with
35 a qualified nonprofit organization for the development,
36 improvement, restoration, care, maintenance, administration, or
37 operation of a unit or units, or portion of a unit, of the state park
38 system, as agreed to by the director. If the department enters into
39 an operating agreement that involves the operation of the entirety
40 of a park unit, that agreement may be entered into pursuant to this

1 section only to the extent that the agreement would enable the
2 department to avoid closure of a unit or units of the state park
3 system that may otherwise be subject to closure. The prohibition
4 on park closures, pursuant to subdivision (a) of Section 541.5, does
5 not limit the department's authority to enter into an operating
6 agreement pursuant to this section, as provided in subdivision (e)
7 of Section 541.5. The department may only enter into an operating
8 agreement that involves the operation of the entirety of a park unit
9 for no more than 20 park units. An operating agreement with a
10 qualified nonprofit organization shall include, but shall not be
11 limited to, the following conditions:

12 (1) The district superintendent for the department shall provide
13 liaison with the department, the nonprofit organization, and the
14 public.

15 (2) The nonprofit organization shall annually submit a written
16 report to the department regarding its operating activities during
17 the prior year and shall make copies of the report available to the
18 public upon request. The report shall be available on the Internet
19 Web sites of both the department and the nonprofit organization.
20 The report shall include a full accounting of all revenues and
21 expenditures for each unit of the state park system that the
22 nonprofit organization operates pursuant to an operating agreement.

23 (3) (A) Except as provided in subparagraph (B), all revenues
24 that the qualified nonprofit organization receives from a unit shall
25 be expended only for the care, maintenance, operation,
26 administration, improvement, or development of the unit. The
27 qualified nonprofit organization may additionally contribute in-kind
28 services and funds raised from outside entities for the care,
29 maintenance, operation, administration, improvement, or
30 development of the unit.

31 (B) If the qualified nonprofit organization determines that the
32 revenues it has received from a unit are in excess of the revenues
33 that are needed for the care, maintenance, operation, administration,
34 improvement, or development of that unit, and that these funds
35 are not already specified for or committed to specific purposes
36 pursuant to an existing agreement or contract restricting the use
37 of those funds, the qualified nonprofit organization may dedicate
38 those excess revenues to another state park unit for that unit's care,
39 maintenance, operation, administration, improvement, or
40 development.

(4) General Fund moneys shall not be provided to a nonprofit organization to subsidize the operation or maintenance of a park unit. This paragraph applies to state parks, the full operation of which are turned over to a nonprofit organization, but does not apply to or preclude the department from entering into agreements with nonprofit organizations to operate a portion of a state park unit, or from entering into comanagement agreements with nonprofit organizations that involve the sharing of operational and financial responsibilities for the park unit and that have the effect of reducing state costs. This paragraph does not apply to park entrance fees, concession revenues, or any other revenues generated within a park operated by a nonprofit organization pursuant to this section.

(b) An operating agreement entered into pursuant to subdivision (a) shall honor the existing term of a current concession contract for the state park unit subject to the operating agreement.

(c) An operating agreement entered into pursuant to subdivision (a) shall specify the duties that the nonprofit organization shall be responsible for carrying out relative to management and protection of natural, historical, and cultural resources, and shall identify those management duties that shall continue to be conducted by the department, so that all core operations of the park are delineated. Scientific, architectural, and engineering functions that require special expertise or professional training shall only be conducted by or under the supervision of qualified persons with applicable expertise or training and subject to oversight by the department.

(d) This section does not supersede the requirements of Section 5019.53 regarding the protection of natural, scenic, cultural, and ecological values.

(e) The nonprofit organization and the district superintendent for the department shall, following submittal of the annual report pursuant to subdivision (a), hold a joint public meeting for discussion of the report.

(f) If the department intends to enter into an operating agreement for the development, improvement, restoration, care, maintenance, administration, or operation of a unit or units, or a portion of a unit, the department shall notify the Member of the Legislature in whose district the unit is located, the Chair of the Senate Committee on Natural Resources and Water, the Chair of the Assembly

1 Committee on Water, Parks, and Wildlife, and the chairs of the
2 Assembly and Senate budget committees of that intention. The
3 notification shall include estimated operating costs and revenues
4 and core duties and responsibilities that are likely to be assigned
5 to the nonprofit organization and the department.

6 (g) For purposes of this section, a qualified nonprofit
7 organization is an organization that is all of the following:

8 (1) An organization that is exempt from taxation pursuant to
9 Section 501(c)(3) of the Internal Revenue Code.

10 (2) An organization that has as its principal purpose and activity
11 to provide visitor services in state parks, facilitate public access
12 to park resources, improve park facilities, provide interpretive and
13 educational services, or provide direct protection or stewardship
14 of natural, cultural, or historical lands, or resources.

15 (3) An organization that is in compliance with the Supervision
16 of Trustees and Fundraisers for Charitable Purposes Act, Article
17 7 (commencing with Section 12580) of Chapter 6 of Part 2 of
18 Division 3 of Title 2 of the Government Code.

19 (h) (1) Notwithstanding Section 10231.5 of the Government
20 Code, the department shall provide a report to the Legislature, on
21 a biennial basis, of the status of operating agreements it has entered
22 into pursuant to this section. The report shall include a list of units
23 of the state park system with operating agreements, discussion of
24 the management and operations of each unit subject to an operating
25 agreement, an accounting of the revenues and expenditures incurred
26 under each operating agreement, and an assessment of the benefit
27 to the state from operating agreements entered into pursuant to
28 this section.

29 (2) A report submitted pursuant to paragraph (1) shall be
30 submitted in compliance with Section 9795 of the Government
31 Code.

32 ~~SEC. 10.~~

33 *SEC. 9.* Section 5080.44 is added to the Public Resources Code,
34 to read:

35 5080.44. (a) The department may accept donations of real
36 property or money from public or private sources to be used for
37 the purpose of funding park programs to benefit youth, as described
38 in subdivision (b).

39 (b) The department may enter into cooperative agreements with
40 public or nonprofit organizations that serve youth to provide service

- 1 and learning opportunities for young people by performing work
2 on state park system programs and projects under the supervision
3 of department employees, where the work is not being performed
4 by state park employees. Programs and projects covered under this
5 subdivision include all of the following:
- 6 (1) Restoring California's natural, historic, archaeological,
7 recreational, and scenic resources.
 - 8 (2) Training young people to be public land and resources
9 managers and stewards for careers in public service.
 - 10 (3) Undertaking appropriate cultural and natural resource
11 conservation in a cost-effective and appropriate manner.